IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Mangal Das & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 1348/2005 against the order dated 20-9-2005 passed by the Sessions Judge, Merta, in Criminal Revision No. 19/2005.

...

Date of Order: September 18, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. O.P. Joshi, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioners have challenged the order dated 20-9-2005 passed by the Sessions Judge, Merta (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 19/2005, whereby the revision petition filed by the petitioners again the order dated 8-12-2004 passed by the Additional Chief Judicial Magistrate, Merta (for short, "the trial Court" hereinafter), was dismissed.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Carefully gone through the orders passed by the trial court and as also the Revisional Court.

It appears that on a report was lodged by the

complainant, the police investigated the matter and filed negative final report. The complainant thereafter filed a complaint. The trial Court accepted the negative final report and recorded the statements of the witnesses produced by the complainant under Sections 200 and 202 Cr.P.C. and on the material brought before it on a complaint case, took cognizance of the offences under Sections 147, 447, 379 and 149 IPC against the petitioners and issued process. That order came to be challenged by the petitioners before the Revisional Court. The Revisional Court, on examination of the record, found the order of the trial court just and proper and consequently dismissed the revision petition.

In Jagdish Ram Vs. State of Rajasthan, AIR 2004 SC 1734, the Hon'ble Supreme Court held that at the stage of taking cognizance, the Magistrate has only to decide whether sufficient ground exists or not for further proceeding in the matter. It is well settled law that notwithstanding the opinion of the police, a Magistrate is empowered to take cognizance if the material on record makes out a case for the said purpose. The Apex Court further held that investigation is the exclusive domain of the police and taking cognizance of the offence is an area exclusively within the domain of a Magistrate. At this stage, the Magistrate has to be satisfied whether there is sufficient ground for proceeding, and not whether there is

sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.

In the instant case, after acceptance of the negative final report submitted by the police, on the complaint filed by the complainant, the trial Court recorded the statements of the witnesses produced by the complainant under Section 200 and 202 of the Cr.P.C. and on the basis of the material brought before it, took cognizance of the offences noticed above against the petitioners. In view of the law laid down by the Hon'ble Supreme Court in Jagdish Ram Vs. State of Rajasthan (supra) and the reasons recorded by the Court below, I do not find any error, illegality or perversity in the orders impugned. It cannot be said that the impugned orders would result in manifest injustice or abuse of the process of the Court.

The criminal miscellaneous petition is, therefore, dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs